

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>DONOVON LEE,</b>	:	<b>CIVIL ACTION NO. 1:18-CV-1902</b>
	:	
<b>Petitioner</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>MARK CAPOZZA,</b>	:	
	:	
<b>Respondent</b>	:	

**ORDER**

AND NOW, this 13th day of December, 2018, upon consideration of the report (Doc. 14) of Magistrate Judge Joseph F. Saporito, Jr., recommending that the court deny the petition (Doc. 1-2) for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by petitioner Donovan Lee (“Lee”), wherein Judge Saporito opines that Lee’s petition must be dismissed for failure to exhaust state remedies, (see Doc. 14 at 4-7), and the court noting that Lee filed objections (Doc. 15) to the report, see FED. R. CIV. P. 72(b), and following *de novo* review of the contested portions of the report, see *Behar v. Pa. Dep’t of Transp.*, 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing *Sample v. Diecks*, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(C)), and applying a clear error standard of review to the uncontested portions, see *Cruz v. Chater*, 990 F. Supp. 375, 376-78 (M.D. Pa. 1999), the court being in agreement with Judge Saporito that Lee’s petition is properly subject to summary dismissal for failure to exhaust state remedies, and finding Judge Saporito’s analysis to be thorough, well-reasoned, and fully supported by the

record, and further finding Lee's objections to be without merit and squarely addressed by the report, it is hereby ORDERED that:

1. The report (Doc. 14) of Magistrate Judge Saporito is ADOPTED.
2. Lee's petition (Doc. 1-2) for writ of habeas corpus is DISMISSED without prejudice.
3. The court finds no basis to issue a certificate of appealability. See 28 U.S.C. § 2253(c); see also 28 U.S.C. § 2254 Rule 11(a).
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania